

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOSEPH TRANCHINA,

Plaintiff,

vs.

9:17-CV-1256
(MAD/ML)

C.O. JUSTIN MCGRATH, *Bare Hill Correctional
Facility, formerly known as Jeremy McGrath, and*
SGT. MATTHEW BARNABY, *Bare Hill Correctional
Facility, also known as "John" Barnaby,*

Defendants.

JURY VERDICT FORM

PLEASE NOTE - Each Juror will be provided with a Verdict Form. HOWEVER, YOUR VERDICT SHOULD BE REPORTED TO THE JUDGE ON ONLY ONE VERDICT FORM WHICH IS SIGNED BY THE JURY FOREPERSON. The remaining Verdict Forms should be returned to the courtroom deputy unsigned.

ALSO, please carefully follow the bold-type directions accompanying each question.

EXCESSIVE FORCE

1(a). Did Plaintiff prove by a fair preponderance of the credible evidence that, on January 28, 2016, any of the Defendants used excessive force against him in violation of the Eighth Amendment of the United States Constitution?

Defendant Justin McGrath

Yes No

Defendant Matthew Barnaby

Yes No

If you answered "No" with respect to all Defendants in Question 1(a), your deliberations are complete. The Foreperson should sign and date the final page of this form and let the Court Security Officer know that you have reached a verdict. If you answered "Yes" with respect to any Defendant(s) in Question 1(a), please proceed to Question 1(b) as to any such Defendant(s).

1(b). Did Plaintiff prove by a fair preponderance of the credible evidence that the use of excessive force on January 28, 2016, by any Defendant(s) proximately caused an injury to Plaintiff?

Defendant Justin McGrath

☒ Yes _____ No _____

Defendant Matthew Barnaby

Yes _____ No _____

If you answered "No" with respect to all Defendants in Question 1(b), please proceed to Question 2(a). If you answered "Yes" with respect to any Defendant(s) in Question 1(b), please proceed to Question 1(c).

1(c). What sum of money, if any, do you find that Plaintiff has proven by a fair preponderance of the evidence would fairly compensate him for any injury he has suffered that was proximately caused by Defendant(s) alleged use of excessive force surrounding the January 28, 2016 incident?

Defendant Justin McGrath

\$ 190,000

Defendant Matthew Barnaby

\$ _____

Please note that you may not award both compensatory and nominal damages. Therefore, if you found in Question 1(c) that Plaintiff is entitled to compensatory damages for the January 28, 2016 incident, please skip Question 1(d) and proceed to Question 1(e). If you found that Plaintiff is not entitled to compensatory damages in Question 1(c), please proceed to Question 1(d) and award Plaintiff nominal damages of no more than \$1.00.

1(d). What amount, if any, do you award as nominal damages to Plaintiff for the alleged excessive force incident on January 28, 2016?

Defendant Justin McGrath

\$ _____

Defendant Matthew Barnaby

\$ _____

Please proceed to Question 1(e).

1(e). Did Plaintiff establish by a fair preponderance of the evidence that the Defendant(s) for whom you answered "Yes" to both Questions 1(a) and 1(b) was motivated by evil motive or intent or by reckless indifference to Plaintiff's constitutional rights, such that punitive damages should be assessed against that Defendant(s)?

Defendant Justin McGrath

Yes ☒ No ☐

Defendant Matthew Barnaby

Yes ☐ No ☐

Please proceed to Question 2(a).

FAILURE TO PROTECT/INTERVENE

2(a). Did Plaintiff prove by a fair preponderance of the credible evidence that the following Defendant violated his Eighth Amendment rights by failing to protect him from a use of excessive force on January 28, 2016?

Defendant Matthew Barnaby

Yes ☐ No ☒

If you answered "No" with respect to the Defendant in Question 2(a), your deliberations are complete. Please have the foreperson sign and date the last page of the Verdict Form. If you answered "Yes" to Question 2(a), please proceed to Question 2(b).

2(b). Did Plaintiff prove by a fair preponderance of the credible evidence that the Defendant failure to protect him from a use of excessive force on January 28, 2016 proximately caused an injury to Plaintiff?

Defendant Matthew Barnaby

Yes ☐ No ☐

If you answered "No" with respect to the Defendant in Question 2(b), your deliberations are complete. Please have the foreperson sign and date the last page of the Verdict Form. If you answered "Yes" to Question 2(b), please proceed to Question 2(c).

2(c). What sum of money, if any, do you find that Plaintiff has proven by a fair preponderance of the evidence would fairly compensate him for any injury he has suffered

that was proximately caused by Defendant's alleged failure to protect Plaintiff from a use of excessive force on January 28, 2016?

\$ _____

Please note that you may not award both compensatory and nominal damages. Therefore, if you found in Question 2(c) that Plaintiff is entitled to compensatory damages for the January 28, 2016 incident, please skip Question 2(d) and proceed to Question 2(e). If you found that Plaintiff is not entitled to compensatory damages in Question 2(c), please proceed to Question 2(d) and award Plaintiff nominal damages of no more than \$1.00.

2(d). What amount, if any, do you award as nominal damages to Plaintiff for Defendant's alleged failure to protect Plaintiff from the use of excessive force on January 28, 2016?

\$ _____

Please proceed to Question 2(e).

2(e). Did Plaintiff establish by a fair preponderance of the evidence that any of the Defendant for whom you answered "Yes" to both Questions 2(a) **and** 2(b), was motivated by evil motive or intent or by reckless indifference to Plaintiff's constitutional rights by his failure to intervene, such that punitive damages should be assessed against that Defendant?

Defendant Matthew Barnaby

Yes _____ No _____

YOUR DELIBERATIONS ARE COMPLETE.

PLEASE INFORM THE MARSHAL THAT YOU HAVE REACHED A VERDICT. PLEASE REMEMBER TO HAVE THE FOREPERSON DATE AND SIGN YOUR VERDICT SHEET. THANK YOU.

Dated: August 21, 2020

Foreperson's Name Redacted

Foreperson's Signature